

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NANCY ROSARIO, INDIVIDUALLY, AS)	
SHE IS THE ADMINISTRATRIX OF THE)	
ESTATE OF AWILDA SANTIAGO, ESSEX)	
PROBATE COURT DOCKET #03P-2499AD1,)	
P/P/A VERONICA ROSARIO AND)	
CHRISTINA SANTIAGO, AND AS SHE IS THE)	
ADMINISTRATRIX OF THE ESTATE OF)	
JOSE SANTIAGO, BERLIN (CONNECTICUT))	Civil Action #05-CV-10617MLW
PROBATE COURT, CASE #03-0713)	
<u>Plaintiff</u>)	
)	
v.)	
)	
RARE HOSPITALITY INTERNATIONAL, INC.)	
d/b/a LONGHORN STEAKHOUSE)	
<u>Defendant</u>)	

JOINT STATEMENT

The parties hereby submit the following Joint Statement, which includes: (1) a proposed agenda of matters to be discussed at the scheduling conference; (2) a proposed pre-trial schedule (including a plan for initial disclosures, discovery, the filing of motions, and a pre-trial conference); and (3) certifications required by Local Rule 16.1(D)(3).

I. Agenda of Matters to be Discussed At Scheduling Conference

A. Proposed Pre-Trial Schedule

1. Initial Disclosures
2. Discovery Plan
3. Motion Schedule
4. Pre-Trial Conference

B. Any Matter Listed in Fed. R. Civ. 16(c)

II. Proposed Pre-Trial Schedule

A. Initial Disclosures

The parties will exchange initial disclosures by October 3, 2005.

B. Discovery Plan

1. Deadline for Completion of Fact Discovery: October 15, 2006. Discovery shall be served so that the responses shall be completed by October 15, 2006, provided that, given the number of depositions anticipated in this action (see letter from plaintiff's counsel to defendant's counsel dated August 18, 2005, attached as Exhibit A), the parties, individually and jointly, reserve the right to seek an extension of the deadline for completion of fact discovery.

2. Plaintiff requests relief from the Local Rule 26.1(C) limitation of ten depositions per side. Otherwise, for the time being, the parties agree that the discovery shall be conducted pursuant Local Rule 26.1; neither party waives the right to seek leave of court to conduct discovery beyond that provided for in the Local Rules. Should either party determine that discovery beyond the limitations set forth in Local Rule 26.1 is needed, such party will endeavor to reach agreement on the issue with opposing counsel before raising it with the Court.

3. Deadline for plaintiff's expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2): October 1, 2006. Deadline for defendant's expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2): November 1, 2006.

4. Deadline for exchange of expert rebuttal reports: November 15, 2006.

5. Completion of any additional discovery by defendant of plaintiff's experts, including interrogatories and depositions by defendant of plaintiff's experts: December 15, 2006. March 1, 2007 Completion of any additional discovery by plaintiff of defendant's

experts, including interrogatories and depositions by plaintiff of defendant's experts: March 1, 2007.

C. Motions Schedule

Motions for Summary Judgment: Any motion for summary judgment shall be filed by January 30, 2007.

D. Pre-Trial Conference

The parties will prepare to meet with the Court to discuss scheduling the trial of this matter on or after March 1, 2007.

E. Plaintiff's Settlement Proposal

Plaintiff demands the following to settle each of the claims listed below. These amounts do not include any claims under MGL c. 93A. Should plaintiff seek to assert such claims, plaintiff reserves the right to revise these settlement demands upward:

Death of Jose Santiago, including punitive damages: \$7.5 million

Death of Awilda Santiago, including punitive damages: \$7.5 million

Injuries suffered by Christina Santiago: \$12.5 million

Injuries suffered by Veronica Rosario \$3.5 million

Injuries suffered by Nancy Rosario \$3.5 million

IV. Certifications by Counsel and Parties

Pursuant to Local Rule 16.1(D)(3), certifications from counsel and authorized representatives of each party that they have conferred on the matters set forth in that Rule are attached hereto.

Plaintiff
By her attorney,

ALBERT L. FARRAH, JR., ESQ.
One Washington Mall
Boston, MA 02108
(617) 742-7766
B.B.O. #159340

Defendant
By its attorney,

BRIAN P. VOKE, ESQ.
Campbell, Campbell, Edwards
& Conroy, P.C.
One Constitution Plaza
Charlestown, MA 02129
(617) 241-3000
B.B.O. #544327

Date: September ___, 2005

ALBERT L. FARRAH, JR.

COUNSELOR AT LAW

One Washington Mall • Boston, MA 02108

(617) 742-7766 • Fax: (617) 742-2331

alf@afarrah.com

www.afarrah.com

August 18, 2005

Brian Voke, Esq.
Campbell, Campbell, Edwards & Conroy, LLC
One Constitution Plaza
Charlestown, MA 02129

RE: Nancy Rosario, et al v. RARE Hospitality International, Inc. d/b/a Longhorn Steakhouse
United States District Court Docket #05-CV-10617MLW

Dear Brian:

Although our September 20, 2005 appearance is for a Status Conference, I'd like us beforehand to make as much progress as possible resolving scheduling and discovery issues, and to report to the court that the parties will be ready for trial by March 1, 2007. With that date in mind below are various proposed deadlines.

Initial Disclosures

You will have mine before September 20, 2005, although my computation of damages will not be complete at that time. When can I expect your disclosures?

Expert Disclosures and Pretrial Disclosures

I am willing to agree that the parties will provide all expert disclosures by October 15, 2006, and expert rebuttal reports thirty days later. I am comfortable with the requirement that Rule 26(a)(3) disclosures, and objections, be made in accordance with that rule. I propose that expert depositions be completed by January 15, 2007.

Depositions

Enclosed is a list of persons that I intend, at this point, to include in the plaintiff's initial disclosure as individuals likely to have discoverable information. As you can see, the list is quite large. I anticipate deposing between 15 and 20 liability witnesses, including current and former

employees of RARE's Leominster Longhorn, approximately 10 punitive damages witnesses, including various RARE corporate employees and between 5 - 10 damages witnesses.

I assume you will want to depose my client, Nancy Rosario, her two surviving daughters, Christina and Veronica, other family members and possibly others. Thus, the number of non-expert could range as high as 60-65 witnesses. We clearly need relief from the Local Rule 26.1(C) ten deposition limitation for each side.

Completion of Depositions

It is my belief that, if we work cooperatively, we can complete fact witness depositions by October 15, 2006.

Motions for Summary Judgment

Any motion for summary judgment shall be filed by December 15, 2006.

Pre-Trial Conference

On or after February 1, 2007.

Please call or email me with your thoughts.

Sincerely,

ALBERT L. FARRAH, JR.
pmp

cc: Nancy Rosario
Louis J. Farrah, II, Esq.

Enclosure

Fax and Regular Mail

1. Jeffrey Southworth, c/o Massachusetts Dept. of Corrections
2. Terry L. Essary, 221 Fairystone Lake Drive, Stuart, VA 24171-3158, (276) 930-2408
3. Thomas Scott Espey, 80 Old Mill Road, Harvard, MA 01451-1122, (978) 772-2357
4. Michael Espey, 80 Old Mill Road, Harvard, MA 01451-1122, (978) 772-2357
5. Jude Connelly, 15 Lovers Lane, Harvard, MA 01451, (978) 456-8453
6. William Todd Currie, 16 Westcott Street, Harvard, MA 01451, (978) 456-8662
7. Various employees of RARE Hospitality International, Inc., whose identities and addresses have yet to be determined
8. Trooper Paul Sullivan, Massachusetts State Police, 906 Elm Street, Concord, MA, (978) 369-1004
9. Trooper Brad Kessel, Massachusetts State Police, 906 Elm Street, Concord, MA, (978) 369-1004
- 9a. Trooper Kerry A. Alvino, Massachusetts State Police, Collision Analysis and Reconstruction Section, 485 Maple Street, Danvers, MA, (978) 538-6065
10. Officer James McCusker, Westford Police Department, 53 Main Street, Westford, MA, (978) 692-2161
11. Officer Daniel O'Donnell, Westford Police Department, 53 Main Street, Westford, MA, (978) 692-2161
12. Officer Christopher Ricard, Westford Police Department, 53 Main Street,

Westford, MA, (978) 692-2161

13. Sgt. Harvey Cote, Westford Police Department, 53 Main Street, Westford, MA, (978) 692-2161

14. Lt. James Barrett, Westford Police Department, 53 Main Street, Westford, MA, (978) 692-2161

15. EMT James R. Klecak, Westford Fire Department, 637 High Street, Westford, MA, (978) 692-5542

16. EMT Gregg McLaughlin, Westford Fire Department, 637 High Street, Westford, MA, (978) 692-5542

17. EMT Shawn Girard, Westford Fire Department, 637 High Street, Westford, MA, (978) 692-5542

18. EMT Keith Dunn, Littleton Fire Department, Littleton, MA, (978) 952-2302

19. John G. Ryan, III, 18 Wall Street, Linwood, MA

20. Jordan Tankis, 118 Main Street, Uxbridge, MA

21. James Ryan, 18 Wall Street, Linwood, MA

22. Jeanne-Louise Ogle, 23 Sterling Street, Clinton, MA

23. Janet E. Pruet, 20 John Swift Road, Acton, MA

24. Nancy Rosario, 6 Washington Way, Lawrence, MA

25. Christina Santiago, 6 Washington Way, Lawrence, MA

26. Veronica Rosario, 6 Washington Way, Lawrence, MA

27. Julia Schmidt, 86 Gold Street, 1st Floor, New London, CT

28. Keeper of the Records, Children's Hospital, 300 Longwood Avenue, Boston,

MA, (617) 355-6000

29. Person in charge of billing, Children's Hospital, 300 Longwood Avenue,
Boston, MA, (617) 355-6000

30. Various medical providers from Children's Hospital, 300 Longwood Avenue,
Boston, MA including, but not limited to:

- a. David Mooney, M.D., (617) 355-6359
- b. Amy Ralph, M.D., Radiology, (617) 355-6286
- c. Jeannette Perez-Rossello, M.D., Radiology, (617) 355-6286
- d. Timothy Carroll, M.D., Radiology, (617) 355-6286
- e. Robyn Byer M.D., (617) 355-6000
- f. Deepa Soni, M.D., (617) 732-6600
- g. Michele M. Burns, M.D., (617) 355-6000
- h. Joshua Nagler M.D., (617) 355-6625
- i. Kathleen M. Ventre, M.D., (617) 355-7327
- j. Jeffrey P. Burns, M.D., (617) 355-7327
- k. Jennifer G. Andrus, M.D., (617) 355-6000
- l. Alexander M. Papanastas, M.D., (617) 355-6000
- m. Benjamin Hagendorf, M.D., (617) 355-6000
- n. David Brown, M.D., (617) 355-6000
- o. Gerhard K. Wolf, M.D., (617) 355-6000
- p. Alexander Dzakovic, M.D., (617) 355-6000
- q. David Lewis, M.D., (617) 355-6000

- r. David Rothstein, M.D., (617) 355-8325
- s. Charles Murphy, M.D., (617) 355-6624
- t. Edward Smith, M.D., (617) 355-8414)
- u. Zara Cooper, M.D., (617) 732-5500
- v. David K. Urion, M.D., (617) 355-6388
- w. Padraig Sheeran, M.D., (617) 355-6000
- x. Leticia C. Castillo, M.D., (617) 355-7327)
- y. Elizabeth Mahoney, M.D., (617) 355-6000
- z. Stephanie Greene, M.D., (617) 355-6008
- aa. Stefan Scholz, M.D., (617) 355-6000
- bb. Heung B. Kim, M.D., (617) 355-8544
- cc. Theresa Becker, M.D., (978) 927-4004
- dd. Zahir Sarwar, M.D., (617) 355-6000
- ee. Richard L. Robertson, M.D., (617) 355-6000
- ff. Robert L. Lebowitz, M.D., (617) 355-6000
- gg. Jeanne S. Chow, M.D., (617) 266-6149
- hh. Sabah Servaes, M.D., (617) 355-6000
- ii. Susan A. Connolly, M.D., (617) 355-6000
- jj. Anna Golja, M.D., (617) 355-6000
- kk. Bang Huynh, M.D., (617) 355-6000
- ll. Robert H. Cleveland, M.D., (617) 355-6000
- mm. Joseph Makris, M.D., (617) 355-6000

- nn. Howard Hoffman, M.D., (617) 355-6000
- oo. Rick A. Fair, M.D., (617) 355-6000
- pp. Jordan Zeigler, M.D., (617) 355-6000
- qq. Matthew Schenker, M.D., (617) 355-6000
- rr. N.T. Griscom, M.D., (617) 355-6000
- ss. Rajit Shetty, M.D., (617) 355-6000
- tt. Tina Young Poussaint, M.D., (617) 355-6000
- uu. Robert J. Graham, M.D., (617) 355-6000
- vv. Mona Sazgar, M.D., (617) 355-6000
- ww. Ann Bergin, M.D., (617) 355-6000
- xx. Robert J. Graham, M.D., (617) 355-6000
- yy. Sally H. Vitaili, M.D., (617) 355-6000

31. Keeper of the Records, Spaulding Rehabilitation Hospital, 125 Nashua Street, Boston, MA, (617) 573-7000

32. Person in charge of billing, Spaulding Rehabilitation Hospital, 125 Nashua Street, Boston, MA, (617) 573-7000

33. Various medical providers from Spaulding Rehabilitation Hospital, 125 Nashua Street, Boston, MA including, but not limited to:

- a. Patrick Brennan, M.D., (617) 573-7000
- b. Donna Nimec, M.D., (617) 573-7000
- c. Marina Protopapas, M.D., (617) 573-7000
- d. Lucienne Cahen, M.D., (617) 573-2222

- e. Dr. Lynn, (617) 573-7000
- f. Aruna Sachdev, M.D., (617) 573-7000
- g. Gail Lopreste, M.D., (617) 573-7000

34. Keeper of the Records, Whittier Rehabilitation Hospital, 76 Summer Street, Haverhill, MA, (978) 372-8000

35. Person in charge of billing, Whittier Rehabilitation Hospital, 76 Summer Street, Haverhill, MA, (978) 372-8000

36. Various medical providers at Whittier Rehabilitation Hospital, 76 Summer Street, Haverhill, MA including, but not limited to:

- a. Kathleen Clermont, MS, CCC/SLP, (978) 372-8000

37. Keeper of the Records, New England Medical Center, Boston, MA, (617) 636-5000

38. Person in charge of billing, New England Medical Center, Boston, MA, (617) 636-5000

39. Various medical providers at New England Medical Center, Boston, MA including, but not limited to:

- a. Stephanie L. Kwei, M.D., (617) 636-5891
- b. Carl B. Heilman, M.D., Neurology, (617) 636-5860
- c. Stanley R. Gold, M.D., Emergency Room, (508) 833-4950
- d. Brian F. Gilchrist, M.D., (617) 636-5028
- e. Lara E. Morse, M.D., pediatric neurology, (617) 636-5340
- f. Mitchell B. Stominger, M.D., (617) 636-6769

- g. Kathleen M. Courtney, M.D., (617) 332-8273
 - h. Peter G. Passias, M.D., (617) 636-5000
 - i. Sami Erbay, M.D., radiologist, (617) 636-0040
 - j. Donald B. Darling, M.D., pediatric radiologist, (617) 636-7931
 - k. Kathy Byun, M.D., (617) 636-5000
 - l. Robert J. Bert, M.D., radiologist, (617) 636-3246
40. Keeper of the Records, Essex Chiropractic, 493 Essex Street, Lawrence, MA, (978) 686-7111
41. Person in charge of billing, Essex Chiropractic, 493 Essex Street, Lawrence, MA, (978) 686-7111
42. Various medical providers at Essex Chiropractic, 493 Essex Street, Lawrence, MA including, but not limited :
43. Keeper of the Records, Advanced Spine Center, 420 Common Street, Lawrence, MA, (978) 557-9072
44. Person in charge of billing, Advanced Spine Center, 420 Common Street, Lawrence, MA, (978) 557-9072
45. Various medical providers at Advanced Spine Center, 420 Common Street, Lawrence, MA including, but not limited to:
- a. Mark J. MacCormack, Chiropractic Physician, (978) 557-9092
46. Keeper of the Records, Lawrence Public Schools, 255 Essex Street, Lawrence, MA, (978) 975-5905
47. Various teachers of Christina Santiago, including, but not limited to:

a. Ms. Macinn, Home room teacher, South Lawrence East School,
Lawrence, MA

b. Janet Farnan, evaluation team facilitator, South Lawrence East School,
Lawrence, MA

c. Patricia Jennings, Reg. Ed. Teacher, South Lawrence East School,
Lawrence, MA

d. David Klarman, school counselor, South Lawrence East School,
Lawrence, MA

e. Pamela Lang, Special Education Teacher, South Lawrence East
School, Lawrence, MA

f. Christine Kalil, Regular Education, South Lawrence East School,
Lawrence, MA

48. Various teachers of Veronica Rosario, including, but not limited to:

a. Ms. Acevedo, South Lawrence East School, 165 Crawford Street,
Lawrence, MA, (978) 975-5970

b. Ms. Slam, South Lawrence East School, 165 Crawford Street,
Lawrence, MA, (978) 975-5970